

**ARKANSAS PROFESSIONAL BAIL BOND COMPANY AND PROFESSIONAL
BAIL BONDSMAN LICENSING BOARD**

March 9, 2007

Chairman Smith called the meeting to order at 9:02 a.m.

Roll call was taken. The following members were present: Don Smith, Frank Sturgeon, Marc Oudin, Eugene Reynolds, Phyllis Carruth, and Curt Clark. Lynn Williams was absent. Also present were board counsel, Assistant Attorney General Tricia Bell; Executive Director, Tommy Reed; Board staff, and members of the audience.

Following a review of the Board Minutes for February 9, 2007, Mr. Oudin moved to approve the minutes as presented; second by Mr. Sturgeon. The Chair called for further discussion; hearing none the matter was put to a voice vote. The motion carried.

OLD BUSINESS

Transfers/Suspensions/Reinstatements:

A report was provided for information purposes: Five (5) transfer requests were submitted and granted during the month. There were eight (8) agent suspensions pursuant to notice of termination /resignation from companies.

Forfeitures - Open:

The Open Forfeiture Report was presented for review. The chair invited comment or discussion. Mr. Reed noted a \$50,000 judgment for Manuel Bail Bond Co., Inc. due April 7, 2007, as the largest judgment on the list. He noted that most judgment listed were "relatively small."

Mr. Oudin moved to suspend those licensees whose forfeitures were not timely paid between March 9, 2007 and the April 13, 2007 regular board meeting. Ms. Carruth seconded. The motion carried by voice vote.

Past Due Forfeitures:

The Past Due Forfeiture Report was presented for review. The Chair invited comment or discussion. Mr. Oudin stated he thought that the "St Francis situation (Manuel Bail Bond Co., Inc.) was being taken care of," and asked Mr. Reed to explain. Mr. Reed noted Crittenden Co. had notified the Board of an agreement on Manuel judgments and that orders of satisfaction would be provided when available. He noted he inquired from "time to time" but had so far received no orders of satisfaction.

Mr. Reed then discussed the legal posture of a \$100,000 judgment on Manuel from Phillips Co. and advised what actions had been taken on behalf of the Board in order to proceed. Re: St Francis Co. - He explained that supersedeas bonds were on file with the District Court of St Francis County and the matters rested with the court. There was no further discussion and the Board proceeded.

Requests to re-open #06-042:

The Chairman noted a request to reopen this matter and stated that during the hearing the Board had determined not to revoke William E. Fagan's bail bondsman license but did not consider any other sanction. The Chairman noted that, if the matter were reopened, no testimony would be taken and that Mr. Fagan would receive notice of the proceeding and have the right to be present with counsel.

1 Asst. Atty Gen., Tricia Bell, was recognized and stated that Asst. Atty Gen., Nancy Pryor had
2 researched the matter and advised it was her opinion that to reopen the matter would be to invite
3 litigation because the matter had "already been settled." Ms. Bell acknowledged that some Board
4 members felt the hearing officer had closed the hearing without giving the Board the opportunity
5 to consider further motions regarding other sanctions. Ms. Bell said the issue was whether there
6 was justification to reopen the matter to consider other sanctions.

7
8 Chairman Smith noted a conversation with the County Attorney for Arkansas County who was of
9 the same opinion as Ms. Pryor. Mr. Reed was recognized and noted case law that supported
10 reopening the matter to correct a mistake or oversight. He noted the transcript reflects the
11 Chairman's comment that off-the-record deliberations found the allegations true and that "it came
12 down to a vote whether to suspend or revoke his license." Mr. Reed stated his opinion that "res
13 judicata" is inapplicable because the matters decided, i.e. the truth of the allegations, will not be
14 re-litigated.

15
16 After further discussion, the floor was opened for motions. Ms. Carruth moved to reopen the
17 matter to consider imposition of sanctions other than revocation of Mr. Fagan's license; second
18 by Mr. Sturgeon. The motion carried by unanimous voice vote.

19
20 Mr. Clark was recognized and apologized for his unavoidable absence from February's meeting.
21 He then noted he had received a number of calls from agents that were upset and who expressed
22 their opinion that the Board's action in this and other matters sent a message that "agents can do
23 anything they want to and the Board won't do anything." Mr. Oudin noted the importance of
24 Board member attendance and stated that those agents weren't present and "they don't hear the
25 testimony and what we go through." After further discussion, the Board proceeded.

26 27 **Legislative Update:**

28 A summary of legislation and bills filed was provided. Re: HB 2650 - Mr. Reed noted that small
29 and minority owned business interests had raised a concern that the formula for calculating
30 maximum outstanding liability was discriminatory. He noted Rep. Earnest Brown, the bill's
31 sponsor, met with those persons and had failed to reach a compromise. Rep. Brown indicated he
32 was seeking input from a minority constituent in his district that owned a bail bond company, and
33 that his decision would be based on his constituent's opinion of the bill.

34
35 Mr. Reed called the Board's attention to SB 975 by Sen. Jack Critcher which will give 70% of the
36 bond fees paid to the Insurance Department to the Domestic Peace Fund administered by the
37 Arkansas Child Abuse/Rape/Domestic Violence Commission. He noted the conflict between this
38 bill and HB 2650.

39
40 Mr. Reed said he had made efforts to find common ground with the small/minority business
41 owners and address their concerns but was unable to do so. He noted their fundamental
42 opposition to any formula based on a ratio of reserves to liabilities.

43 44 **NEW BUSINESS**

45 46 **February Vouchers Paid:**

47 A report of vouchers paid in February, 2007 was provided for information purposes. Chairman
48 Smith invited questions or discussion. There was no comment, question, or discussion and the
49 Board proceeded.

1 **License Approvals:**

2 Four (4) bondsman applications were submitted for approval and eight (8) applications were
3 submitted for tentative approval pending receipt and approval of necessary documentation. Mr.
4 Oudin moved to approve the applications, including tentative applications. Mr. Sturgeon
5 seconded. The Chair called for discussion or comments; hearing none, the motion was put to a
6 vote. The motion carried with none opposed
7

8 **Rule Change – Compliance with posted detention centers:**

9 Mr. Reed advised the Board he had published timely notice of the April 13, 2007 public hearing
10 to consider amendment of the Board's rules to make violation of posted rules and regulations of a
11 detention center a violation of the Board's rules.
12

13 **Public Comments:**

14 The Chairman opened the floor for public comments. Wanda Cox mentioned that since "all this"
15 about the phones has started she had received numerous phone calls from detainees wanting her
16 to make three-way phone calls for them. She wondered if she was trying to be set up. Gary
17 Edwards was recognized and suggested the Board send notice of the rule change to "each agent"
18 and have them sign and return the notice so that no one could claim lack of knowledge or notice.
19 Chairman Smith and Mr. Clark expressed agreement. Mr. Sturgeon suggested perhaps the notice
20 should go to company owners.
21

22 Mr. Peters was recognized and explained he had drafted a letter to be sent to Sheriffs upon
23 adoption of the rule change suggesting that each bondsman be required to sign acknowledgment
24 of receipt of that detention center's applicable policies. Tom Nickolich was recognized and stated
25 his opinion that the Board should not be required to send notice to individual agents. He said it
26 was the responsibility of the companies to educate their agents.
27

28 Mr. Reed cautioned that sending notice to agents would set a precedent of individual notice of
29 rule changes and would work against the Board's interest. He noted that each licensee is charged
30 with responsibility of knowing the statutes and rules governing their industry. He noted the same
31 objection applied whether the notice was to company or agent.
32

33 Mr. Sturgeon requested that when Mr. Peters send his letter to municipal police departments also.
34 Mr. Peters noted there were approximately 673 law enforcement agencies in the state that may
35 detain arrestees.
36

37 Mr. Reed took the opportunity to advise that the Board's website was up and running at
38 www.bailbondsman.arkansas.gov. He described some of the information that could be obtained
39 there. There were no further comments and the Chair turned the floor over to the Hearing Officer,
40 Asst. Atty Gen. Tina Watkins for the purpose of conducting scheduled hearings. Upon conclusion
41 of the hearings, the floor was returned to the Chairman and the meeting was adjourned.
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43 Submitted for approval: This 9th day of March, 2007, _____

Chairman Don Smith
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